APR 1982

ROGERS, JOSEPH, O'DONNELL & QUINN
JOSEPH W. ROGERS, JR.
CHARLES B. KLINEDINST
MARK A. WHITE
LEO F. ORENSTEIN
505 Sansome Street - 14th Floor
San Francisco, CA 94111
Telephone: (415) 956-2828

SHOOK, HARDY & BACON
ROBERT E. NORTHRIP
GARY R. LONG
20th Floor, 1101 Walnut
Kansas City, MO 64106
Telephone: (816) 474-6550

Attorneys for Defendant
Philip Morris Incorporated

IN THE UNITED STATES DISTRICT COURT

FOR THE NORTHERN DISTRICT OF CALIFORNIA

JAMES T. CLAY and TIMOTHY J. CLAY, Plaintiffs, vs. PHILIP MORRIS CORPORATION, THE TOBACCO INSTITUTE, and DOES 1 through 100, inclusive, Defendants.	)	NO. C 81 3096 WWS AFFIDAVIT OF L. H. FOUNTAIN Date: May 28, 1982 Time: 11:00 a.m.

L. H. Fountain, being duly sworn upon his oath, deposes and says:

1. I am a member of the United States House of Representatives, representing the State of North Carolina.

2. On October 25, 1979, I wrote to Gio B. Gori, Ph.D., Deputy Director of the Division of Cancer Cause and Prevention

1002802975

Source: https://www.industrydocuments.ucsf.edu/docs/tznl0000

with the National Institute of Health in the Department of Health, Education and Welfare. The purpose of my letter was to inquire about the subject of self-extinguishing cigarettes. A true and accurate copy of my letter to Dr. Gori is attached as Exhibit "A" to this affidavit.

3. Attached as Exhibit "B" to this affidavit is a true and accurate copy of the letter from Gio B. Gori, responding to my request.

4. I am competent to testify to the matters stated herein.

L. H. Fountain

L. H. Fountain

CITY OF WASHINGTON
DISTRICT OF COLUMBIA

DISTRICT OF COLUMBIA)
) SS.
COUNTY OF _____)

Now on this 19th day of March, 1982, personally appeared before me L. H. Fountain, and after being duly sworn upon his oath, signed the foregoing affidavit and stated that the facts set forth in such affidavit are known to him to be true.

Subscribed and sworn to before me this _____ day of March, 1982.

Robert H. Cooksey

Notary Public

My Commission Expires:

_____

Robert H. Cooksey
Notary Public, Dist. of Columbia
Commission Expires July 14, 1985

1002802976

Source: https://www.industrydocuments.ucsf.edu/docs/tznl0000

MEMBER
COMMITTEE ON
GOVERNMENT OPERATIONS
SUBCOMMITTEE:
CHAIRMAN, INTERGOVERNMENTAL
RELATIONS AND HUMAN RESOURCES

COMMITTEE ON
FOREIGN AFFAIRS
SUBCOMMITTEES:
INTERNATIONAL SECURITY AND
SCIENTIFIC AFFAIRS
EUROPE AND THE MIDDLE EAST

Congress of the United States
House of Representatives
Washington, D.C. 20515

EXECUTIVE ASSISTANT
2186 RAYBURN HOUSE OFFICE BUILDING
WASHINGTON, D.C. 20515
TELEPHONE: (202) 225-4531

DISTRICT OFFICE:
EDGECOMBE COUNTY OFFICE BUILDING
TARBORO, NORTH CAROLINA 27886
TELEPHONE: (919) 823-4230

October 25, 1979

Dr. Gio Batta Gori
Deputy Director
Division of Cancer Cause & Prevention
National Cancer Institute
Bethesda, Maryland 20014

Dear Dr. Gori:

In view of your expertise and experience in the development and testing of cigarettes, I wonder if you have ever studied, investigated, or tested any of the several proposals to produce a so-called self-extinguishing cigarette?

I recall your earlier comments several years ago to former Senator Moss who advocated the mandatory development of such a product. Because similar legislation has been introduced in this Congress, I would appreciate receiving any later information you may have to shed light on this highly technical subject.

With kindest regards and best wishes, I am

Sincerely,

L. H. Fountain

L. H. Fountain

LHF:gw

1002802972

FOUNTAIN AFFIDAVIT - EXHIBIT "A"

Source: https://www.industrydocuments.ucsf.edu/docs/tznl0000

BETHESDA, MARYLAND 20014

NATIONAL CANCER INSTITUTE

The Honorable L. H. Fountain
House of Representatives
Washington, D. C. 20515

Dear Mr. Fountain:

I have your letter of October 25, 1979, on the subject of self extinguishing cigarettes.

This concept has arisen from time to time in the context of fire hazard prevention, but practical solutions have not yet turned out. Persistent suggestions have been made over the last few years by a Mr. Charles C. Cohn of Atlantic City, New Jersey, who patented a cigarette that he claims to be fire resistant (sic) and also to yield reduced amounts of undesirable smoke constituents.

The National Cancer Institute had his cigarettes tested and found substantially higher rather than reduced yields for some constituents, when compared to control cigarettes.

This is consistent with our data, which indicate that yield reduction can be accomplished through improved combustion of the cigarette, whereas Mr. Cohn's methods are designed to make the cigarette burn less efficiently.

I include copies of the salient issues in our correspondence with Mr. Cohn.

Because of our data, it is my opinion that self extinguishing cigarettes, which by definition should reduce combustibility, may actually increase the risk from the smoke itself, a public health problem of greater proportions than whatever fire hazards cigarettes may represent.

Let me know if I can be of further assistance.

Sincerely,

Gio B. Gori

Gio B. Gori, Ph.D
Deputy Director
Division of Cancer Cause and Prevention

1002802978

FOUNTAIN AFFIDAVIT - EXHIBIT "B"

Source: https://www.industrydocuments.ucsf.edu/docs/tznl0000

DECLARATION OF SERVICE BY MESSENGER

I declare that I am employed in the City and County of San Francisco, California. I am over the age of eighteen years and not a party to this cause. My business address is 505 Sansome Street, 14th Floor, San Francisco, California 94111. On April 26, 1982 I served the foregoing Affidavit of L. H. Fountain on all parties in this cause by placing a true copy thereof enclosed in a sealed envelope addressed as follows:

Vasilios B. Choulos, Esq.
30 Hotaling Place
San Francisco, CA 94111

Scott N. Hansen, Esq.
John E. Hill, Esq.
Hill & Hansen
722 Montgomery St.
San Francisco, CA 94111

I declare under penalty of perjury that the foregoing is true and correct, and that this declaration was executed on April 26, 1982 at San Francisco, California.

Dawn Guillory

Dawn Guillory

1002802979

Source: https://www.industrydocuments.ucsf.edu/docs/tznl0000